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GREAT FALLS, MT.  
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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
GREAT FALLS DIVISION**

DONALD S. CAPE,

Plaintiffs,

vs.

CORRECTIONS CORPORATION OF  
AMERICA, INC.; JAMES MacDONALD;  
WILLIAM BOOTHE; K. CRANE; TIM  
HAWKE; BEST FOODS, INC.; ARAMARK  
INC.; K. KINYON; Ms. MENGE; Ms.  
STEVESON; J.R. WEISNER; and JOHN  
DOES 1 through 10, sued in their individual  
and official capacities,

Defendants.

No. CV 03-03-GF-SEH

**ORDER**

United States Magistrate Judge Carolyn S. Ostby entered her Findings and Recommendation<sup>1</sup> on July 18, 2006. Plaintiff filed objections<sup>2</sup> on August 7, 2006. The Court reviews *de novo* findings and recommendation to which objections are made. 28 U.S.C. §

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<sup>1</sup> Docket No. 135

<sup>2</sup> Docket No. 140

636(b)(1).

Judge Ostby found that: (1) Defendants are not entitled to summary judgment on the basis of Rooker-Feldman; (2) all the elements of res judicata are met with respect to all of Plaintiff's claims against Defendants Hawke and Best Foods; (3) Plaintiff is collaterally estopped from asserting a First Amendment claim against Defendant Aramark; (4) Defendant's claim for money damages should not be dismissed; (5) Defendant's request for declaratory judgment should be dismissed; (6) Defendant's request for injunctive relief should be dismissed; and (7) Defendant states a claim sufficient to go forward under the Religious Land Use and Institutionalized Person Act against Defendant Aramark based on its alleged failure to provide meatless meals and/or fish on Fridays, Ash Wednesday, and during Lent.

I agree with Judge Ostby's findings and with her recommendations that: (1) the Hawke Defendants' motion for summary judgment should be granted; (2) all of Plaintiff's claims against Defendants Hawk and Best Foods, Inc., should be dismissed with prejudice, and Defendants Hawke and Best Foods, Inc., should be dismissed; (3) Plaintiff's First Amendment claim against Defendant Aramark should be dismissed with prejudice; and (4) Defendant's requests for declaratory and injunctive relief should be dismissed.

Accordingly, after *de novo* review of the record and after considering the Plaintiff's objections, I adopt in full the Findings and Recommendation of Judge Ostby.

ORDERED:

1. The Hawke Defendants' motion for summary judgment<sup>3</sup> is GRANTED.

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<sup>3</sup> Docket No. 122

2. All of Plaintiff's claims against Defendants Hawk and Best Foods, Inc., are DISMISSED WITH PREJUDICE, and Defendants Hawke and Best Foods, Inc., are DISMISSED.

3. Plaintiff's First Amendment claim against Defendant Aramark is DISMISSED WITH PREJUDICE.

4. Defendant's requests for declaratory and injunctive relief are DISMISSED.

DATED this 28<sup>th</sup> day of August, 2006.

  
SAM E. HADDON  
United States District Judge